

E-Filed on 4/28/09

1 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, NV 89169-5996
 Facsimile (702) 949-8321
 Telephone (702) 949-8320

2 Rob Charles NV State Bar No. 006593
 Email: rcharles@lrlaw.com
 John Hinderaker AZ State Bar No. 018024
 jhinderaker@lrlaw.com

3 Attorneys for USACM Liquidating Trust

4

5 **UNITED STATES BANKRUPTCY COURT**
 6 **DISTRICT OF NEVADA**

7 In re:

8 USA COMMERCIAL MORTGAGE
 COMPANY,

9 USA CAPITAL REALTY ADVISORS,
 LLC,¹

10 USA CAPITAL DIVERSIFIED TRUST
 DEED FUND, LLC,

11 USA CAPITAL FIRST TRUST DEED
 FUND, LLC,²

12 USA SECURITIES, LLC,³ Debtors.

13 Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

14 Case No. BK-S-06-10725-LBR¹
 Case No. BK-S-06-10726-LBR¹
 Case No. BK-S-06-10727-LBR²
 Case No. BK-S-06-10728-LBR²
 Case No. BK-S-06-10729-LBR³

15 CHAPTER 11

16 Jointly Administered Under Case No. BK-
 S-06-10725 LBR

17 **APPLICATION FOR ORDER TO**
SHOW CAUSE WHY OBJECTION TO
MOUNTAIN WEST MORTGAGE LLC
PROOF OF CLAIM SHOULD NOT BE
SUSTAINED

18 Hearing Date: June 12, 2009
 Hearing Time: 9:30 a.m.

19

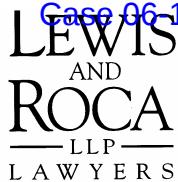
20 The USACM Liquidating Trust (the "USACM Trust") respectfully requests that the
 21 Court enter an order requiring Mountain West Mortgage LLC to appear before the Court
 22 on June 12, 2009 at 9:30 and show cause why the USACM Trust's Objection to Proof of
 23 Claim 10725-00203 filed by Mountain West Mortgage LLC should not be sustained now

24

25 ¹ This bankruptcy case was closed on September 23, 2008.

26 ² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.



1 that MWM is unrepresented by legal counsel. This Application is supported by the
 2 following Memorandum of Points and Authorities, all papers and pleadings filed in this
 3 bankruptcy case, and such argument as the Court may entertain.

JURISDICTION AND VENUE

5 1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and
 6 1334. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409.
 7 2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O).

BACKGROUND

9 3. On April 13, 2006 (the “Petition Date”), USA Commercial Mortgage
 10 Company, USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund,
 11 LLC, USA Capital First Trust Deed Fund, LLC, and USA Securities, LLC (collectively,
 12 the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy
 13 Code. The Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization became
 14 effective on March 12, 2007 (the “Effective Date”), and the USACM Trust succeeded to
 15 certain claims and causes of action held by USACM.

16 4. In connection with its investigation of such claims and causes of action, the
 17 Trust has filed objections to claims filed by various parties.

18 5. On March 13, 2007, The USACM Trust filed an Objection of the USACM
 19 Liquidating Trust to Proof of Claim Filed By Mountain West Mortgage/Lerin Hills
 20 (“MWM”) (the “Objection”) (Claim No. 203) [DE 3078].

21 6. On March 13, 2007, the USACM Trust served the Objection and a Notice of
 22 Hearing on MWM. On March 15, 2007, the USACM Trust filed its requisite notice of
 23 service with the Court.

24 7. On June 6, 2007, MWM filed a Reply to the Objection [DE 3904].

25 8. Pursuant to various stipulations the hearing has been continued various times
 26 and is now scheduled for hearing on May 18, 2009.



9. On February 19, 2009, a Motion to Withdraw as Attorney of Record [DE 6838] was filed by Marjorie A. Guyman on behalf of MWM.

10. The Motion to Withdraw came before the Court for hearing on April 10, 2009. No objections were filed and the Motion was granted. The order has not been entered by the Court.

POINTS AND AUTHORITIES

11. Corporations and partnerships must prosecute their case through an attorney. *Rowland v. California Men's Colony*, 506 U.S. 194, 201 (1993), *Licht v. American West Airlines, Inc.* (*In re American West Airlines, Inc.*), 164 B.R. 315, 317 (9th Cir. Bankr. 1994). MWM cannot prosecute its own case and is no longer represented by legal counsel who can. Accordingly, the Court should order MWM to appear and show cause why the USACM Trust's Objection should not be sustained.

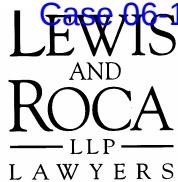
CONCLUSION

12. For all of the foregoing reasons, the USACM Trust respectfully requests that this Court order MWM to appear at the omnibus hearing on June 12, 2009 at 9:30 a.m. and show cause why the USACM Trust's objection to Proof of Claim No. 10725-00203 should not be sustained because MWM no longer has legal counsel. A form of order is provided for the Court's consideration.

DATED: April 28, 2009.

LEWIS AND ROCA LLP

By: /s/ JH (#018024)
Rob Charles, NV 6593
John Hinderaker, AZ 018024
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
Counsel for USACM Liquidating Trust



1 PROOF OF SERVICE

2 Copy of the foregoing mailed by First
3 Class, U.S. Mail, postage prepaid, on
April 28, 2009 to the following parties:

4 Mountain West Mortgage
5 630 Trade Center Drive
Las Vegas, NV 89119

7 /s/ Carrie Lawrence
Carrie Lawrence